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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/017,835

12/12/2001

Ernie F. Brickell

884.437US1

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03/19/2008

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EXAMINER

SHERR, CRISTINA O

ART UNIT

PAPER NUMBER

3621

MAIL DATE

DELIVERY MODE

03/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### **Notice of Non Compliant Amendment**

1. The timely submission under 37 CFR 1.129(a) filed on December 19, 2007 is not fully responsive to the prior Office action because the named submission includes newly added claims 56-58. However, attention is directed to the Requirement for Election/Restriction issued on January 18, 2007. The requirement for election/restriction, required the applicant to make an election of species, wherein claims 1, 7, 13, 27 and 41 were designated generic. Applicant, in the response filed February 6, 2007 elected species D, which included the named generic claims and certain dependent claims. Applicant is reminded that, as stated in paragraph 4 of the Requirement for Election/Restriction issued on January 18, 2007:

2. “Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, *and a listing of all claims readable thereon*, including any claims subsequently added. [Emphasis added.]”

3. The newly added claims 56-58 have not been designated with respect to the species to which they belong. Note that these newly added claims are dependent on generic claim 1, from which both elected and non-elected species depend.

4. Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period

set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CRISTINA OWEN SHERR whose telephone number is (571)272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571)272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3621

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cristina Owen Sherr  
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/ANDREW J. FISCHER/  
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